HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 15191 OF 2005

DATED: 5.2.2007

Between:

R.Brahma Reddy son of Subba Reddy

.Petitioner

and

Special Deputy Collector(KLA) Unit II, Telugu Ganga, Podalakuru and another

...Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.15191 OF 2005

ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition.

This writ petition represents yet another episode of persistent default by the State in tendering and paying land acquisition compensation for acquisition of the petitioner's property whose property has been compulsorily acquired under the provisions of the Land Acquisition Act,1894 (for short "the Act").

The State acquired the structures in Malinenipatnam Village, Atlur Mandal, Cuddapah district due to submergence under the Somasila Project. A notification under Sec.4(1) of the Act was published in the A.P. Gazette on 28-02-1995. Eventually Award No.4/97 was passed on 14-11-1997 awarding compensation of Rs.5,35,568/-. The petitioner received the compensation amount under protest complaining of low values at which the structures were assessed and sought a reference under Sec.18 of the Act. The reference Court enhanced the value of the structures.

Aggrieved by the order and decree of the reference Court, the State preferred appeals. The appeal insofar as the petitioner is concerned was A.S.No.1995 of 2002. However, the State did not seek in the appeal stay of the order in LAOP No.838 of 2002. In the circumstances the petitioner filed E.P.No.48 of 2003 seeking attachment of the amounts

of the decree lying in the account. The E.P was dismissed on the ground that there was no amount to the credit of the account in question. In the E.P the State took the plea that the appeals were pending in the court. As the petitioner was deprived of the fruits of the decree as determined by the reference court and without a rational justification, he has filed this writ petition seeking appropriate relief.

Subsequent to filing of this writ petition (on 13-07-2005), this Court by the judgment and order dated.17-03-2006 dismissed A.S.No.1995 of 2002. As a consequence the order of the reference Court in LAOP NO.838 of 2000 is rendered factually and legally operational. The respondents are therefore obligated to tender or pay to the petitioner or the appropriate persons interested compensation for the lands acquired for submergence under the Somasila project.

The learned Government Pleader for Land Acquisition states that the amounts payable to various claimants whose properties were acquired on account of the Somasila Project submergence, is being cleared by the State by and by in accordance with "*seniority*". This plea is not clear. On the order of the reference Court in LAOP No.838 of 2000 the amount due under that court decree is rendered a charge on the consolidated fund of the State under Article 202 of the Constitution. For reasons best known, which the petitioner alleges are *malafide* the State did not seek interim stay of the order of the reference Court, in AS No.1995 of 2002. In the

circumstance the entirety of the amount awarded by the reference Court in LAOP NO.838 of 2000 ought to have been tendered and paid either to the petitioner (to the extent of his properties acquired) or ought to have been deposited to the credit of LAOP or the E.P as the case may be. The State failed to do this and unlawfully withheld the amounts due to citizens, amounts which are declared a charge on the consolidated fund of the State. As it is not contended by the learned Government Pleader for Land Acquisition that there was any declaration of financial emergency in the State, under our constitutional scheme the State could not escape the liability to pay dues which are declared a charge under the consolidated fund or nor does the State have the power, authority or jurisdiction to divert the destination of the charged funds. The obligation of the State in such circumstances is non-negotiable. The State shall have to pay the amounts forthwith. There is no legal escape from this duty.

On the analysis above the respondents are directed to pay the compensation amount due and payable to the petitioner in respect of structures in Sy.No671 of Malinenipatnam Village, Atloor Mandal in accordance with the judgment and decree of this Court in A.S.No.1995 of 2002, within seven (7) days from the date of receipt of a copy of this order under appropriate receipt from the petitioner.

As the respondents have failed to deposit the amount within reasonable time and despite there being no order of stay in AS No.1995 of 2002, the

conclusion is irresistible that the State has acted irresponsibly and arbitrarily. The writ petition is therefore allowed with costs of Rs.2,500/- (Rupees Two Thousand and Five Hundred only)

GODA RAGHURAM,J

5th FEBRUARY,2007

Note:
Issue CC as soon as possible
(b/o)
***TSNR**